

Application No. 10/538,829
Amdt. dated October 12, 2009
Reply to Office Action May 11, 2009

Amendment to the Drawings:

The attached sheets of drawings include proposed amendment to Figs. 5-6.

In Fig. 5, element 213 has been added.

In Fig. 6, elements 213 and 217 have been added.

Attachment: Replacement sheets

Annotated Sheets showing the changes

Application No. 10/538,829
Amdt. dated October 12, 2009
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REMARKS

1. Remarks on the Amendment

The Specification has been amended to correct typographic and clerical errors, and to provide consistency in the terms used in the specification.

Claims 3-4, 7-10, 13-14, 16-18, 20-25 have been canceled without prejudice.

New Claims 26-40 have been added to more specifically define Applicant's claimed invention.

Antecedent basis of the amendment can be found in the Specification as filed and canceled claims. More specifically, in Claim 26 the support for "pedestrian ground space" can be found on page 8, second paragraph; on page 4, lines 15-20; on page 10, second paragraph, and in Figs. 2 and 3; and the support for the location of the entrance and the exit of the parking structure can be found in Figs. 2-3 and 5-7, and on page 5, the last paragraph.

The support for Claims 27 and 28 can be found on page 9, lines 10-18; on page 11, second paragraph; on page 12, lines 9-12 of the second paragraph; and in Fig. 3.

The support for Claims 29-31 can be found in Figs. 2-3 and 6-7.

The support for Claim 34 can be found on page 12, lines 1-6 of the second paragraph and in Figs. 2 and 6.

The support for Claim 35 can be found on page 6, the fifth paragraph and in Fig.

2.

The support for Claims 36 and 37 can be found on page 12, lines 12-16 of the

Application No. 10/538,829
Amdt. dated October 12, 2009
Reply to Office Action May 11, 2009

second paragraph.

Applicant submits that no new matter is introduced by the amendment.

2. Response to the Rejection under 35 USC §102(b)

Claims 3, 4, 9, 10, 14, 16, 18 and 20-25 have been rejected under 35 USC §102(b) as being anticipated by Mason (U.S. Patent No. 1,830,518). This rejection is respectfully traversed by the amendment.

Claims 3, 4, 9, 10, 14, 16, 18 and 20-25 have been canceled. Applicant's argument is in reference to the new Claims 26-41.

For there to be anticipation under 35 U.S.C. §102, "each and every element" of the claimed invention must be found either expressly or inherently described in a single prior art reference. *Verdegaal Bros vs. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) and references cited therein. See also *Kloster Speedsteel AB v. Crucible Inc.*, 793 F.2d 1565, 1581, 230 USPQ 81, 84 (Fed. Cir. 1986) ("Absence from the reference of any claimed element negates anticipation."); *In re Schreiber*, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997). As pointed out by the court, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). An anticipating reference must describe the patented subject matter with sufficient clarity and detail to establish that the subject matter existed and that its existence was recognized by persons of ordinary skill in the

Application No. 10/538,829
Amdt. dated October 12, 2009
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field of the invention. *ATD Corp V. Lydall, Inc.*, 159 F.3d 534, 545, 48 USPQ 2d 1321, 1328 (Fed. Cir. 1998). See also *In re Spada*, 911 F.2d 705, 708, 15 USPQ ed 1655, 1657 (Fed. Cir. 1990).

As positively recited in the new independent Claim 26, Applicant's claimed mixed-use pedestrian-oriented parking structure requires a pedestrian ground space extending from the first side of the entry garage to the first side of the exit garage; an auto cross-over ramp connecting the first sides of the entry and exit garages at a level above a ground level; an entrance at the ground level through one side of the entry garage, away from the first side of the entry garage and the pedestrian ground space; and an exit at the ground level through one side of the exit garage, away from the first side of the exit garage and the pedestrian ground space.

Applicant submits that the claimed subject matter is not disclosed, taught or suggested by the art of record. More specifically, Mason fails to teach Applicant's claimed parking structure that includes a pedestrian ground space extending between the entry and exit garages, and fails to teach the instant parking structure that has the entrance and the exit located apart from each other and away from the pedestrian ground space.

On the contrary, Mason teaches two central entrances and exits 55, 57 from the street level leading to the basement and to the second floor. Mason specifically teaches to group the ramps together and position them one above the other to provide plenty head room, and to minimize required space (page 5, lines 48-67 of the reference).

Applicant further points out that in Mason's building, the entrance or the exit is

Application No. 10/538,829
Amdt. dated October 12, 2009
Reply to Office Action May 11, 2009

not through any side of the two units at the street level. Instead, the central entrances and exits are positioned on, and at the center of, the intermediate street 50, with the ramps in parallel to the sides of the two building units.

Moreover, in Mason's building there is no pedestrian ground space extending between the opposing sides of the two building units. Instead, Mason teaches to position the central entrances and exits on the intermediate street 50 between the opposing sides of the two building units, and to provide roadways 50a on both sides of the central entrances and exits. As such, the vehicles from street 50 directly pass through the building between the two units, so that the vehicle traffic on street 50 is not interfered (page 5, lines 99-103 and Fig. 1).

These structural features and functions so achieved by Mason are distinctly different from those provided in the instant parking structure. As disclosed in the present application, the instant invention provides a more ergonomic, mixed-use pedestrian-oriented parking structure, which solves common problems of existing parking garages and achieves several advantages over the existing art. These include avoiding intersection between vehicles entering and exiting the parking structure, and reducing vehicular conflict with pedestrian flux, particularly at the entrance and the exit of the parking structure (see page 5, the fourth paragraph and the last paragraph of the specification).

Structurally, the instant parking structure separates the entrance and the exit for the vehicles into two separate parking units. Furthermore, the entrance and the exit are positioned away from the adjacent sides of the two parking units. As shown, this

Application No. 10/538,829
Amdt. dated October 12, 2009
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completely avoids intersection between vehicles entering and exiting the parking structure, which improves vehicle traffic flow and reduces complexity of traffic arrangement around the parking structure.

Moreover, the entrance and the exit of the parking structure are positioned away from the pedestrian ground space extending between the entry and exit garages. This allows pedestrian-oriented or mix-mode corridor, such as a center courtyard, to be arranged in the ground space between the two parking units, and to provide a more ergonomic parking structure in urban environment.

In view of the above, Applicant submits that Applicant's claimed invention as defined by Claim 26 is not anticipated or suggested by Mason.

With regard to Claims 27-41, these claims are dependent upon independent Claim 26. Under the principles of 35 U.S.C. §112, 4th paragraph, all of the limitations of each independent claim are recited in its respective dependent claims. As described above, independent Claim 26 is not anticipated by the prior art of record, as such Claims 27-41 are submitted as being allowable over the art of record.

Accordingly, Applicant respectfully requests withdrawal of the rejection under 35 U.S.C. §102(b).

3. Response to the Rejection under 35 USC §103(a)

Claims 7-8 and 17 are rejected under 35 U.S.C. §103 (a) as being unpatentable over Mason in view of Johnston (U.S. Patent No. 6,209,270).

Application No. 10/538,829
Amdt. dated October 12, 2009
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Claims 7-8 and 17 have been canceled. New Claim 40 corresponds to these canceled claims.

As stated above, Claim 40 is dependent upon independent Claim 26, and the independent Claim 26 is allowable over the art of record, therefore, Claim 40 is allowable also.

Accordingly, Applicant requests withdrawal of the rejection under 35 U.S.C. §103(a).

It is respectfully submitted that Claims 26-41, the pending claims, are now in condition for allowance and such action is respectfully requested.

Applicant's Agent respectfully requests direct telephone communication from the Examiner with a view toward any further action deemed necessary to place the application in final condition for allowance.

Respectfully submitted,

10/12/2009
Date of Signature


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